



Express Mail No.: EL 500 575 578 US #3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Luban and Peters

Application No.: 10/043,061

Group Art Unit: TBA

Filed: January 11, 2002

Examiner: TBA

For: CUSTOMER LOYALTY
PROGRAMS AND SYSTEMS
AND METHODS FOR SUCH
PROGRAMS

Attorney Docket No.: 10031-007-999

PETITION UNDER 37 C.F.R. § 1.47(A)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

The present Petition is submitted because one of the two joint inventors of this application, Mr. Mathew Luban (Luban), refuses to execute the application papers. It is respectfully submitted that this Petition meets the three requirements for a petition under 37 C.F.R. § 1.47(a) that are identified in M.P.E.P. § 409.03(a). Further, please charge the required fee for this petition, which is believed to be \$130.00 as set forth in 37 C.F.R. § 1.17(h), to Pennie & Edmonds LLP Deposit Account No. 16-1150. A copy of this sheet is enclosed.

CONCERNING REQUIREMENT M.P.E.P. § 409.03(a)(A):

Submitted herewith is a Declaration signed by the other joint inventor, Mr. Charles Eric Peters, on behalf of himself and of Mr. Luban in the manner required by M.P.E.P. § 409.03(a)(A).

08/16/2002 AWDNDAF1 00000033 161150 10043621

03 FC:122 130.00 CH

CONCERNING REQUIREMENT M.P.E.P. § 409.03(a)(B):

Despite repeated requests, Mr. Luban has repeatedly refused to execute the application papers. His refusal is evidenced by the facts stated in the Declarations of Mr. Robert C. Lawrence IV and of Mr. Brian D. Bellardo, who are responsible individuals associated with Stockback Holdings, Inc. (hereinafter, Applicant), assignee of all right to, title in, and interest under the subject matter of the above-identified application.

In summary, Robert C. Lawrence IV, who was Head of Business Development for the Applicant at the relevant times, declares that:

(i) He spoke with Mr. Luban on January 7, 2002 and February 6, 2002 about signing the declaration;

(ii) Shortly after February 6, 2002, he faxed to Mr. Luban a copy of the declaration; and

(iii) Subsequently he spoke with Mr. Luban on February 22, 2002 and March 7, 2002 during which conversations Mr. Luban acknowledged that he had received the declaration and stated that he would not sign it.

In summary, Brian D. Bellardo, who is General Counsel to Stockback Capital, LLC, an affiliate of the Applicant, declares that:

(i) He sent to Mr. Luban by overnight courier on August 2, 2002 a copy of the above-identified application and the declaration including a request that Mr. Luban sign and return the declaration by August 9, 2002;

(ii) As of the filing date of this Petition, Mr. Luban has not signed the declaration; and

(iii) The Applicant is the assignee of all right in, title to, and interest under this application because

(a) Charles Eric Peters, one of the two co-inventors, has executed a written assignment assigning all his right in, title to and interest under this application to Applicant; and

(b) Matthew Luban, the other of the two co-inventors, has assigned all his right in, title to and interest under this application to Applicant by operation of the law of the State of New York because, during Mr. Luban's employment with the Applicant, he was directed by the Applicant to create the invention disclosed and claimed in this application, and because Mr. Luban created this invention on Applicant's time and at Applicant's sole expense.

Consequently, it is respectfully submitted that these declarations establish beyond all doubt that Mr. Luban has repeatedly refused to execute the application papers.

CONCERNING REQUIREMENT M.P.E.P. § 409.03(a)(C):

The last known address of the non-signing co-inventor is, Mr. Matthew Luban, 75 West End Ave. Apt. C11D, New York, NY 10023.

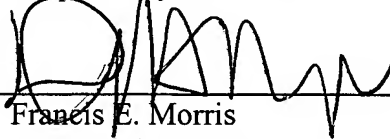
CONCLUSION

Applicant respectfully submits that this Petition and its accompanying enclosures fully and completely satisfy all the requirements of 37 C.F.R. § 1.47(a). Therefore, Applicant courteously requests allowance of this petition and acceptance of this application.

If the Patent and Trademark Office finds any deficiencies in the Petition, its showings and accompanying evidence, Applicant requests that the undersigned be contacted at the telephone number below to provide an opportunity to resolve any problems.

Date August 12, 2002

Respectfully submitted,



Francis E. Morris

By: Dwight H Renfrew Jr.

PENNIE & EDMONDS LLP

1155 Avenue of the Americas

New York, New York 10036-2711

(212) 790-9090

24,615

(Reg. No.)

38,594

Enclosures (Declaration signed by Mr. Peters; Declarations in support of this Petition by Messrs. Lawrence and Bellardo)